



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Final Results of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd.; 2012-2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY:

On May 20, 2014, the Department of Commerce (Department) published its preliminary results of the 2012-2013 semiannual new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC).¹ This review covers two companies: Jinxiang Merry Vegetable Co., Ltd. (Merry) and Cangshan Qingshui Vegetable Foods Co., Ltd. (Qingshui). We invited interested parties to comment. Based on our analysis of the comments received, we made no changes to the margin calculations for these final results. We continue to find that each of these companies sold subject merchandise at less than normal value.

DATED: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.)

FOR FURTHER INFORMATION CONTACT: Sean Carey and Hilary E. Sadler, Esq., AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3964 and (202) 482-4340, respectively.

¹ See *Fresh Garlic From the People's Republic of China: Preliminary Results of the New Shipper Review of Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd.*, 79 FR 28895 (May 20, 2014) and its accompanying Issues and Decision Memorandum (*Preliminary Results*).

Background

On May 20, 2014, the Department published the *Preliminary Results* of this new shipper review.² The review covers two new shippers, Merry and Qingshui. The period of review (POR) is November 1, 2012, through April 30, 2013. On June 19, 2014, the respondents requested a hearing and submitted a joint case brief. Petitioners³ did not file a case brief. On June 24, 2014, petitioners submitted rebuttal comments. On June 30, petitioners submitted timely comments on the calculations of the preliminary results.⁴ On July 23, 2014, the Department extended the deadline for these final results to October 10, 2014, in accordance with section 751(a)(2)(B) of Tariff Act of 1930, as amended (the Act) and 19 CFR 351.214(i)(2).⁵ On September 4, 2014, the Department held a public hearing regarding this review.

Scope of the Order

The products subject to this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.200020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. A full description of the scope of

² *Id.*

³ Petitioners in this new shipper review are the Fresh Garlic Producers Association and its individual members: Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, and Vessey and Company, Inc.

⁴ See Letter from petitioners, “21st New Shipper Review of Fresh Garlic from the People’s Republic of China - Petitioners’ Comments on Surrogate Value Workbook,” dated June 30, 2014.

⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations from Hilary E. Sadler, Esq., Senior International Trade Compliance Analyst, Office VII, Antidumping and Countervailing Duty Operations, “Fresh Garlic from the People’s Republic of China: Extension of Deadline for the Final Results of the Reviews of Cangshan Qingshui Vegetable Foods Co., Ltd. and Jinxiang Merry Vegetable Foods Co., Ltd.” dated July 23, 2014.

the order is contained in the Issues and Decision Memorandum dated concurrently with, and hereby adopted by, this notice.⁶

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that are raised in the briefs and addressed in the Issues and Decision Memorandum is in the appendix of this notice. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <https://iaaccess.trade.gov>, and is available to all parties in the Department's Central Records Unit, located in room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

The Department made no changes to the margin calculations since the *Preliminary Results*.

Final Results of Review

The Department determines that the following weighted-average dumping margins exist for the POR:

Exporter/Producer	Weighted Average Margin (dollars per kilogram)
Jinxiang Merry Vegetable Co., Ltd.	\$3.33
Cangshan Qingshui Vegetable Foods Co., Ltd.	\$3.06

⁶ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Issues and Decision Memorandum for the Final Results of 2011-2012 Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China," issued concurrently with this notice (Issues and Decision Memorandum).

Disclosure and Public Comment

Normally, the Department discloses to interested parties the calculations performed in connection with the final results of review within five days after the date of publication of the notice of final results in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because the Department made no changes to the margin calculations for either respondent, in accordance with section 776 of the Act, there are no calculations to disclose. Accordingly, the issues pertaining to the rates assigned in these final results are discussed in the *Preliminary Results* and the Issues and Decision Memorandum.

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1). The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of review. For Merry and Qingshui, we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually-examined respondent whose weighted-average dumping margin is above *de minimis*, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales.⁷ For Merry and Qingshui, we will instruct CBP to assess an antidumping duty assessment rate of \$3.33 per kilogram and \$3.06 per kilogram, respectively, on all entries of subject merchandise that entered the United States during the POR.

⁷ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

The Department recently announced a refinement to its assessment practice in NME cases.⁸ Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate of \$4.71 per kilogram.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from Merry and Qingshui entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise produced and exported by the companies listed above, the cash deposit rate will be the rate established in these final results of review for each company as listed above; and (2) for subject merchandise exported by one of the companies listed above that was not produced by that company, the cash deposit rate will be that for the PRC-wide entity. These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement

⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

could result in the Secretary of Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of business proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). We request timely written notification of return or destruction of APO materials or conversion to judicial protective order. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published this notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214.

Dated: October 8, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

Summary

Background

Scope of the Order

Discussion of the Issues

 Comment 1: Selection of the Surrogate Country

 A. Three-Prong Analysis to the Surrogate Country Selection

 1. Economic Comparability

 2. Significant Producer of Comparable Merchandise

 3. Quality and Public Availability of Data

 B. General Challenge to the Surrogate Country Selection in the Preliminary Results

 Comment 2: Adjusting Surrogate Values to Reflect Direct Packing Materials

Recommendation

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